

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ANTONIO SPATES,**

**Plaintiff,**

**v.**

**DEPARTMENT OF REHABILITATION  
AND CORRECTION, *et al.*,**

**Defendants.**

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**Case No. 2:16-cv-935**

**JUDGE ALGENON L. MARBLEY**

**Magistrate Judge Jolson**

**OPINION & ORDER**

On November 28, 2016, the United States Magistrate Judge issued a **Report and Recommendation** in this case (Doc. 11), recommending that the Court dismiss Plaintiff's case because: (1) the Complaint provides no basis to conclude that the Court has jurisdiction over this action; (2) the Ohio Department of Rehabilitation and Correction is not a proper defendant, as it is absolutely immune from suit by virtue of the Eleventh Amendment to the United States Constitution; and (3) the Complaint fails to state a claim against Defendant C/O Day. (*Id.* at 2–4.) The parties were specifically advised of their right to object to the Report and Recommendation within fourteen days and of the consequences of their failure to do so. No objection has been filed.

Since neither party has objected, and the deadline for such objections elapsed on December 15, 2016, this Court **ACCEPTS** the Magistrate Judge's Report and Recommendation. This case is hereby **DISMISSED**.

**IT IS SO ORDERED.**

**s/ Algenon L. Marbley**  
**ALGENON L. MARBLEY**  
**UNITED STATES DISTRICT JUDGE**

**DATED: January 13, 2017**